

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Manuel Esquivel, individually and as a
representative of a class of similarly situated
persons, on behalf of the WHATABURGER
401(k) SAVINGS PLAN (f/k/a the Whataburger
Profit Sharing and 401(k) Savings Plan),

Case No. 5:24-cv-310-XR

Plaintiff,

v.

WHATABURGER RESTAURANTS LLC;
THE BOARD OF DIRECTORS OF
WHATABURGER RESTAURANTS LLC;
THE WHATABURGER 401(K) SAVINGS
PLAN ADMINISTRATIVE COMMITTEE
(f/k/a the Whataburger Profit Sharing and
401(k) Savings Plan Administrative
Committee); and DOES No. 1–20, Whose
Names Are Currently Unknown,

Defendants.

DECLARATION OF JEREMY P. BLUMENFELD

I, Jeremy P. Blumenfeld, a partner at Morgan, Lewis & Bockius LLP, counsel for
Defendants Whataburger Restaurants, LLC, the Board of Directors of Whataburger Restaurants
LLC,¹ and the Whataburger 401(k) Savings Plan Administrative Committee (collectively,
“Whataburger”), submit this declaration in support of Whataburger’s Motion to Dismiss Plaintiff’s
Complaint.

¹ This entity does not exist.

1. Attached as **Exhibit A** is a true and correct copy of the “Separation and Release Agreement” executed by Manuel Esquivel Jr. and Whataburger Restaurants LLC on March 15, 2023.
2. Attached as **Exhibit B** is a compilation of true and correct excerpts of the relevant portions of the Forms 5500 for the Whataburger 401(k) Savings Plan (the “Plan”) from 2018 to 2022.
3. Attached as **Exhibit C** is a true and correct copy of the Amended Complaint in *Locascio et al. v. Fluor Corporation, et al.*, Case No 3:22-cv-00154-X, Dkt. No. 18 (N.D. Tex., 2022).
4. Attached as **Exhibit D** is a true and correct excerpt of the Prospectus for the JPMorgan Large Cap Growth Fund, dated November 1, 2018.
5. Attached as **Exhibit E** is a true and correct excerpt of the Prospectus for the JPMorgan Large Cap Growth Fund, dated November 1, 2017.
6. Attached as **Exhibit F** is a true and correct copy of the Summary Prospectus for the JPMorgan Large Cap Growth Fund, dated November 1, 2023.
7. Attached as **Exhibit G** is a true and correct excerpt of the Prospectus for the MainStay Large Cap Growth Fund, dated February 26, 2018.
8. Attached as **Exhibit H** is a true and correct copy of the Prospectus for the Fidelity Growth Company Fund, dated January 29, 2018.
9. Attached as **Exhibit I** is a true and correct copy of the Summary Prospectus for the Wasatch Core Growth Fund, dated January 31, 2020.
10. Attached as **Exhibit J** is a true and correct copy of the Prospectus for the Putnam Small Cap Growth Fund, dated October 30, 2020.

11. Attached as **Exhibit K** is a true and correct excerpt of the Prospectus for the Janus Henderson Triton Fund, dated January 28, 2021.

12. Attached as **Exhibit L** is a true and correct excerpt of the Prospectus for the Janus Henderson Triton Fund, dated January 28, 2022.

13. Attached as **Exhibit M** is a true and correct copy of the Morningstar Portfolio Page for the Janus Henderson Triton Fund, dated May 31, 2024.

14. Attached as **Exhibit N** is a true and correct copy of the Morningstar Portfolio Page for the Wasatch Core Growth Fund, dated May 31, 2024.

15. Attached as **Exhibit O** is a true and correct copy of the Morningstar Portfolio Page for the Putnam Small Cap Growth Fund, dated April 30, 2024.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Philadelphia, Pennsylvania this 17th day of June, 2024.



Jeremy P. Blumenfeld